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March 9, 2004

**VIA ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Office of Managing Director  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-B204  
Washington, DC 20554

Attn: Wireline Competition Bureau

**Re: Guam Cellular and Paging, Inc. d/b/a Saipancell  
Petition for Designation as an Eligible Telecommunications  
Carrier on the Islands of Saipan, Tinian and Rota in the  
Commonwealth of the Northern Mariana Islands  
CC Docket No. 96-45**

Dear Madam Secretary:

Guam Cellular and Paging, Inc. d/b/a Saipancell ("Saipancell") hereby amends its above-referenced petition for ETC status in the Commonwealth of the Northern Mariana Islands ("CNMI")<sup>1</sup> to provide additional information requested by the Commission, through its Wireline Competition Bureau ("WCB") and consistent with the Commission's recent *Virginia Cellular* decision.<sup>2</sup>

**1. CTIA's Consumer Code for Wireless Services.**

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<sup>1</sup> Guam Cellular and Paging, Inc. d/b/a Saipancell, Petition for Designation as an Eligible Telecommunications Carrier on the Islands of Saipan, Tinian, and Rota in the Commonwealth of Northern Mariana Islands, CC Docket No. 96-45 (filed Feb. 19, 2002) ("Petition"). Amendments to the Petition were filed on April 15, 2002, May 8, 2002, October 15, 2002, January 22, 2003, and February 10, 2003.

<sup>2</sup> *Virginia Cellular, LLC*, FCC 03-338 (rel. Jan. 22, 2004), *recon. pending*.

In its order designating Virginia Cellular, LLC (“Virginia Cellular”) as an ETC, the Commission noted the petitioner’s commitment to abide by the CTIA’s Consumer Code for Wireless Services.<sup>3</sup> If designated as an ETC, Saipancell commits to abide by the CTIA Consumer Code for Wireless Services, as it may be amended from time to time, for all of its operations in CNMI.

## **2. Consumer Complaint Reporting.**

In *Virginia Cellular*, the Commission required the petitioner to file with the Commission an annual report of its customer complaints. Saipancell hereby commits to do the same upon a grant of ETC status. Saipancell fully supports the Commission’s efforts to collect service quality data that will permit it to develop meaningful service quality rules, to the extent necessary. If designated, Saipancell shall provide the FCC with an annual report providing the number of consumer complaints per 1,000 handsets in service. This, together with the aforementioned promise to abide by the CTIA Consumer Code, provides strong “evidence of [Saipancell’s] commitment to high service quality.” *Virginia Cellular* at ¶ 30.

Collection of quality of service data is consistent with the Commission’s determination in 1997 to monitor service quality standards so that rules may be developed if trends in service quality reveal the need for regulation.<sup>4</sup> Saipancell believes that collection of data on customer complaints of all CMRS carriers, irrespective of their status as ETCs, will enable the Commission to determine whether rules should be adopted, and encourages the Commission to collect such data from all CMRS carriers operating in CNMI.

Based on our review of comments filed in the ongoing Joint Board proceeding in CC Docket No. 96-45, we are constrained to note that some parties have launched a misguided attack on competitive ETCs (“CETCs”) over the past year, claiming that competitive neutrality requires all ETCs to have similar regulatory obligations, including service quality standards similar to those applicable to ILECs. This view was squarely rejected by the Commission in 1997 when it ruled:

Several ILECs assert that the Joint Board’s recommendation not to impose additional criteria is in conflict with its recommended principle of competitive neutrality because some carriers, such as those subject to COLR obligations or service quality regulation, perform more burdensome and costly functions than other carriers that are eligible for the same amount of compensation. The statute itself, however, imposes obligations on ILECs that are greater than those imposed on other carriers, yet section 254 does not limit eligible telecommunications carrier designation only to those carriers that assume the responsibilities of ILECs.

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<sup>3</sup> [http://www.wow-com.com/pdf/The\\_Code.pdf](http://www.wow-com.com/pdf/The_Code.pdf)

<sup>4</sup> *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8857-8 (1997).

In view of the fact that service quality rules were not enacted as a *quid pro quo* for ILECs being designated as ETCs, Saipancell believes such rules are more properly imposed to protect consumers from monopoly business practices. The discipline that is applied by robust marketplace competition is far preferable to regulation. Introduction of effective competition will lessen the need for full monopoly regulation on ILECs in CNMI.

While the Joint Board has recommended that some level of service quality standards be applied to all ETCs, Saipancell is pleased to note that the Board recognized that new requirements in the course of an ETC designation proceeding should not be imposed “for parity’s sake. Rather, requirements should be imposed on ETCs only to the extent necessary to further universal service goals, including the provision of high-quality service throughout the designated service area.”<sup>5</sup>

If service quality is a problem for wireless carriers, then the problem is best addressed in a rulemaking proceeding of general applicability wherein all interested parties and stakeholders may participate. The CNMI government may enact statutes and conduct rulemaking proceedings to impose lawful service quality standards on CMRS carriers should it so choose. Moreover, this Commission is permitted to adopt necessary rules to advance the goals of universal service and see that consumers receive high quality services as mandated by the Act.

Saipancell believes its customer service to be superior to its wireless and wireline competition. It looks forward to providing the Commission with the requested data and to participating in any rulemaking proceedings which address this important issue.

### **3. Service Provisioning Commitment.**

As an ETC, Saipancell must take on competitively-neutral federal carrier of last resort obligations which require the company to provision service to all consumers reasonably requesting service within its ETC service area.<sup>6</sup> The Commission requested Saipancell to describe specifically how it will respond to requests for service. Upon review of service provisioning commitments approved by the FCC and state commissions,<sup>7</sup> Saipancell is pleased to make the following commitment to provision service to requesting customers:

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<sup>5</sup> *Federal-State Joint Board on Universal Service, Recommended Decision*, FCC 04 J-1 (Jt. Bd. rel. February 27, 2004).

<sup>6</sup> *See Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission, Declaratory Ruling*, 15 FCC Rcd 15168 at ¶ 17 (2000) (Aug. 10, 2000) (“A new entrant, once designated as an ETC, is required, as the incumbent is required, to extend its network to serve new customers upon reasonable request”).

<sup>7</sup> *See, e.g., Virginia Cellular, supra*; Highland Cellular, Inc., Recommended Decision (West Virginia), Case No. 02-1453-T-PC (Sept. 15, 2003); Alaska DigiTel, LLC (Alaska), Docket U-02-39, Order No. 10 (August 28, 2003).

In response to such requests for service at a residence or business, Saipancell will take the following steps:

1. If a request comes from a customer within its existing network, Saipancell will provide service immediately using its standard customer equipment.

2. If a request comes from a customer residing in any area where Saipancell does not provide service, Saipancell will take a series of steps to provide service.

\* First, it will determine whether the customer's equipment can be modified or replaced to provide acceptable service.

\* Second, it will determine whether a roof-mounted antenna or other network equipment can be deployed at the premises to provide service.

\* Third, it will determine whether adjustments at the nearest cell site can be made to provide service.

\* Fourth, it will determine whether there are any other adjustments to network or customer facilities which can be made to provide service.

\* Fifth, it will explore the possibility of offering the resold service of carriers that have facilities available to that location.

\* Sixth, Saipancell will determine whether an additional cell site, a cell-extender, or repeater can be employed or can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service. If there is no possibility of providing service short of these measures, Saipancell will notify the customer and provide the Commission with an annual report of how many requests for service could not be filled. The Commission will retain authority to resolve any customer complaints that Saipancell has refused to respond to a reasonable request for service.

Saipancell believes these service provisioning commitments will ensure that the company is responsive to consumers' needs while acting as a proper steward of available high-cost support funds.

#### **4. Construction Plans**

In *Virginia Cellular*, the carrier provided plans for using high-cost funds to improve its facilities and reach out to areas that it does not currently serve.<sup>8</sup> The Commission has requested a similar commitment from Saipancell. Consistent with *Virginia Cellular*, Saipancell is pleased to provide this information with the understanding that, in the absence of a specific request for

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<sup>8</sup> See *Virginia Cellular* at ¶ 16. Specifically, Virginia Cellular committed to use universal service support to construct 11 new cell sites in sparsely populated areas within its ETC service area. The FCC noted that the carrier's build-out plan "may evolve over time" as a result of shifts in consumer demand. *Id.*

service, general consumer demand often shifts which can cause a planned cell site to be relocated. In connection with its annual certification, Saipancell will also provide the Commission with information on how high-cost support funds are used so that any changes in construction plans can be properly explained. *See Virginia Cellular* at ¶ 46.

Following the filing of its petition, the Commission requested Saipancell to obtain a license to serve the entirety of the inhabited islands within the Commonwealth of Northern Mariana Islands (“CNMI”). Because there was no Block A license in portions of the CNMI, Saipancell proposed a new cell site that would provide 32 dBu contour throughout the inhabited islands. That new cell site, located on the island of Rota, was proposed in File No. 0001100239. On January 15, 2003, the Commission granted the application and on January 22, 2003, Saipancell amended its ETC petition to include the island of Rota. Saipancell now holds a license to serve throughout the CNMI and stands ready to fulfill its ETC obligations throughout that area upon designation.

Should this petition be granted, Saipancell plans to construct three to five new cell sites on the island of Rota, and one to two sites on the island of Tinian. Those areas are served by a monopoly, the Micronesian Telephone Company, which also controls the only wireless systems operating in those locations. In addition, Saipancell will examine on an ongoing basis whether additional ‘fill-in’ facilities need to be constructed to reach unserved subscribers.

## **5. Advertising Commitment.**

Saipancell specifically commits to advertise the availability of its services throughout its ETC service area. The company will provide notices at local unemployment, social security and welfare offices so that consumers who may not have telephone service can learn about Saipancell’s service and that Lifeline and Link-up discounts are available. In addition, the company commits to locally publicize the construction of all new facilities in unserved or underserved areas so that consumers understand that the new facilities provide improved service in their area of interest. *See Virginia Cellular* at ¶ 25.

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We trust that you will find this information to be useful. Should you have any questions or require any additional information, please contact undersigned counsel directly.

Respectfully submitted,

GUAM CELLULAR AND PAGING, INC.  
D/B/A SAIPANCELL

By: \_\_\_\_\_/s/\_\_\_\_\_  
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cc: Thomas Buckley, Esq.